

SUPREME COURT OF THE UNITED STATES.

No. 983.—OCTOBER TERM, 1926.

The United States of America, Plain-	}	In Error to the District Court of the United States for the Southern District of Florida.
tiff in Error,		
vs.		
D. J. Alford.		

[May 16, 1927.]

Mr. Justice HOLMES delivered the opinion of the Court.

Alford was indicted for building a fire near inflammable grass and other inflammable material and timber situated upon the public domain of the United States, and for not extinguishing the same before leaving it, by reason of which the said grass and other material was burned. The count was demurred to on the ground that the statute concerned does not cover the building or leaving of fires at any place except upon a forest reservation, and that if it attempts to cover fires elsewhere it is unconstitutional and void. The District Court construed the statute in the same way and sustained the demurrer. A writ of error was taken by the United States.

By the Act of June 25, 1910, c. 431, § 6; 36 Stat. 855, 857, amending § 53 of the Penal Code of March 4, 1909, "Whoever shall build a fire in or near any forest, timber, or other inflammable material upon the public domain, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall, before leaving said fire, totally extinguish the same; and whoever shall fail to do so shall be fined not more than one thousand dollars, or imprisoned not more than one year, or both." The Court read the words 'upon the public domain' as qualifying the phrase 'whoever shall build a fire'. We are of opinion that this was error, and that 'upon the public domain' should be referred to the words immediately pre-

ceding it: 'forest, timber, or other inflammable material'.—So interpreted they make better English and better sense. The purpose of the Act is to prevent forest fires which have been one of the great economic misfortunes of the country. The danger depends upon the nearness of the fire not upon the ownership of the land where it is built. It is said that the construction that we adopt has been followed by the Department of Justice and by a number of cases in the District Courts ever since the passage of the original Act of February 24, 1897, c. 313; 29 Stat. 594. We regard the meaning as too plain to be shaken by the suggestion that criminal statutes are to be construed strictly. They also are to be construed with common sense.

The statute is constitutional. Congress may prohibit the doing of acts upon privately owned lands that imperil the publicly owned forests. *Camfield v. United States*, 167 U. S. 518. See *McKelvey v. United States*, 260 U. S. 353. The word 'near' is not too indefinite. Taken in connection with the danger to be prevented it lays down a plain enough rule of conduct for anyone who seeks to obey the law.

Judgment reversed.

A true copy.

Test:

Clerk, Supreme Court, U. S.